

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

UNITED STATES OF AMERICA, et al.,
ex rel. CALEB HERNANDEZ and JASON
WHALEY, Relators

Plaintiffs,

v.

TEAM HEALTH HOLDINGS INC., et al.

Defendants.

CASE No. 2:16-cv-00432-JRG

HONORABLE RODNEY GILSTRAP, CHIEF U.S.
DISTRICT JUDGE

RELATORS' UNOPPOSED MOTION TO FILE UNDER SEAL

Pursuant to Local Rule CV-5(a)(7)(C), the Protective Order (Dkt. No. 69) entered by the Court in this action, and this Court's June 1, 2016 Standing Order Regarding Protection of Proprietary and/or Confidential Information to be Presented to the Court During Motion and Trial Practice, Relators Caleb Hernandez and Jason Whaley ("Relators") hereby file this Unopposed Motion to Seal ("Motion"). Specifically, Relators request that the Court allow Relators to file a complete and unredacted copy of their Motion to Compel Discovery Due to Defendants' Waiver of Attorney-Client Privilege and Brief in Support ("Motion to Compel") under seal.

Relators' Motion to Compel refers to and quotes certain portions of and statements made in Defendants' operative privilege log. Defendants have designated their privilege log as "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY" under the Protective Order entered in this action. *See* Dkt. No. 69 at ¶¶1, 3-4, 8-11. Therefore, information referenced and contained in the Motion to Compel must be treated as confidential under the Protective Order (*see id.*), and according to Defendants' designation, is of such a nature that its public disclosure creates "a substantial risk of serious harm" to Defendants that outweighs the strong presumption in favor of

public access to judicial proceedings. Thus, to comply with the Protective Order, Relators seek the Court's permission to file a complete and unredacted copy of their Motion to Compel under seal.

Defendants do not oppose Relators' request. The parties have met and conferred in good faith concerning the manner in which the sensitive information reflected in the Motion to Compel will be presented to the Court and at any hearing, with the goal of minimizing the need to seal the record and the courtroom. Pursuant to Local Rule CV-5(a)(7)(C), Relators are filing this motion to file under seal separately and immediately before filing their unredacted Motion to Compel for which sealing is requested. Moreover, in order to minimize the amount of information to be sealed and inaccessible by the public, Relators are filing on the Court's public docket a redacted copy of the Motion to Compel in which all information quoted from Defendants' privilege log is redacted.

For the foregoing reasons, Relators respectfully request that the Court grant this Motion and permit the filing under seal of the complete and unredacted copy of Relators' Motion to Compel.

Dated: June 8, 2020.

Respectfully submitted,

/s/ **Trey Duck**

Michael Angelovich, TX Bar No. 785666

mangelovich@nixlaw.com

Trey Duck, TX Bar No. 24077234

tduck@nixlaw.com

Cody L. Hill, TX Bar No. 24095836

codyhill@nixlaw.com

Bradley W. Beskin, TX Bar No. 24105463

bbeskin@nixlaw.com

NIX, PATTERSON LLP

3600 N. Capital of Texas Hwy.

Building B, Suite 350

Austin, TX 78746

Telephone: 512.328.5333

Facsimile: 512.328.5335

Ed Dougherty, MO#26862, *Pro Hac Vice* in Progress
edougherty@dh-law.com

DOUGHERTY & HOLLOWAY, LLC

7200 NW 86th St., Suite D

Kansas City, MO 64153

Telephone: 816.891.9990

Facsimile: 816.891.9905

ATTORNEYS FOR RELATORS

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of June 2020, I filed this *Relators' Unopposed Motion to File Under Seal* with the Clerk of the Court by means of the Court's ECF system, which served copies of the filing on all counsel of record entered in the case.

/s/ **Trey Duck**

Counsel for Relators